

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

KEVIN CURLEY,

Plaintiff,

v.

CLARK, et al.,

Defendants.

Case No. 1:20-cv-00453-JLT-BAK-SAB (PC)

ORDER DENYING PLAINTIFF'S MOTION  
FOR APPOINTMENT OF COUNSEL

(ECF No. 19)

Plaintiff Kevin Curley is a state prisoner proceeding *pro se* in this civil rights action under 42 U.S.C. § 1983. Plaintiff has filed a motion seeking the appointment of counsel, apparently in response to the Court's Order of Clarification.<sup>1</sup> (ECF Nos. 17, 19.)

Plaintiff does not have a constitutional right to appointed counsel in this action, *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), and the Court cannot require an attorney to represent Plaintiff pursuant to 28 U.S.C. § 1915(e)(1). *Mallard v. U.S. Dist. Ct. for the S. Dist. of Iowa*, 490 U.S. 296, 298 (1989). The Court may request the voluntary assistance of counsel under section 1915(e)(1). *Rand*, 113 F.3d at 1525. However, without a reasonable method of securing and compensating counsel, the Court will seek volunteer counsel only in the most serious and exceptional cases. In determining whether exceptional circumstances exist, the

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<sup>1</sup> As indicated in this Court's order of reassignment, this case has been reassigned to District Judge Jennifer L. Thurston. (ECF. 21.)

1 district court must evaluate both the likelihood of success of the merits and the ability of the  
2 plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. *Id.*

3 Plaintiff's motion does not indicate exceptional circumstances that warrant appointment  
4 of counsel. Even assuming that Plaintiff is not well-versed in the law and that he has made  
5 serious allegations, which, if proved, would entitle him to relief, his case is not exceptional. This  
6 Court is faced with similar cases almost daily. At this stage in the proceedings, the Court cannot  
7 make a determination that Plaintiff is likely to succeed on the merits. Moreover, based on a  
8 review of the record, the Court finds that Plaintiff is able to articulate his claims adequately. *Id.*  
9 Plaintiff has already filed a First Amended Complaint, which will be screened in due course.  
10 (Doc. 15, ex. 1.)

11 Accordingly, the Court denies without prejudice Plaintiff's motion for the appointment of  
12 counsel.

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14 IT IS SO ORDERED.

15 Dated: January 18, 2022



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UNITED STATES MAGISTRATE JUDGE

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